

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
NORTHERN DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

vs.

CHRISTIAN JON DUCREST,
Defendant.

MEMORANDUM DECISION AND
ORDER DENYING MOTION IN
LIMINE AND EXCLUDING TIME

Case No. 1:07-CR-104 TS

Defendant moves to exclude testimony of two government witnesses on the ground that they were not timely identified. Defendant argues that there is insufficient time to locate these witnesses and interview them prior to trial. The government has not responded.

At the time the Motion was filed, the jury trial was set for August 25, 2008. That trial was vacated at the parties' joint request and a change of plea date set. On November 10, 2008, the change of plea hearing was vacated and the jury trial was continued to February 2, 2009. The Court finds that these continuances moot the main reason for the Motion in Limine because there are nearly three months between the date of the rescheduling and the date of trial. Therefore, the Court will deny the Motion without prejudice.


The Court notes that the reason that the trial was continued on the eve of trial was to allow time for a possible plea. By agreement with the parties, it was then re-set at the first date available for counsel. The time until now has been excluded due to the present pending motion. The Court will exclude the delay between the date of the last scheduled trial to the date of the new trial because the Court finds the time is necessary to allow counsel for the government and for Defendant the time necessary for effective preparation of trial, including investigation and interviewing of possible witnesses. The Court finds that the ends of justice served by granting the requested continuance outweigh the best interest of the public and the defendants in a speedy trial pursuant to 18 U.S.C. § 3161(h)(8)(B)(iv). The time of the delay shall constitute excludable time under the Speedy Trial Act. It is therefore

ORDERED that Defendant's Motion in Limine (Docket No. 30) is DENIED without prejudice. It is further

ORDERED that the time from August 25, 2008, through the date of the new trial setting is excluded from the computation for the time for trial as described in 18 U.S.C. §3161.

DATED December 14, 2008.

BY THE COURT:



TED STEWART
United States District Judge